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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,253

09/15/2005

Kevin Stamp

HAGF125144

8545

26389

7590

12/08/2008

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC

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SUITE 2800

SEATTLE, WA 98101-2347

EXAMINER

YEH, JENNER

ART UNIT

PAPER NUMBER

4118

MAIL DATE

DELIVERY MODE

12/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/532,253	Applicant(s) STAMP, KEVIN	
	Examiner JENNER YEHL	Art Unit 4118	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-32, 39-43, 45 and 46 is/are rejected.
- 7) ☒ Claim(s) 33-38 and 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/15/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be "material to patentability as defined in 37 CFR 1.56."

2. The oath states "I acknowledge the duty to disclose information which is material to the examination of this application" and should be changed to "information which is material to patentability".

Drawings

3. The drawings have been received on April 20, 2005, and these drawings have been objected to under 37 CFR 1.84 for the following reasons: lines, numbers and letters are not uniformly thick and well defined; and numbers and reference characters are not plain and legible for all figures. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are

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required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “cooperating tapered surfaces” of the collet lock sleeve and collet fingers (Claims 28-29) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 28 and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The cooperating tapered surfaces of the collet lock sleeve and collet fingers are only recited on page 5, lines 5-7, of the specification. It is not explained which surfaces should be cooperating and tapered and how they are meant to cooperate with each other.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 23 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Schiff et al (US 5865795).

Regarding claim 23, Schiff discloses a needleless injection device with a cylinder 49 (Figure 3) for medicament having an injection nozzle 20 (Figure 3) at a forward end and an opening at its rear end, a piston 50 (Figure 3) sliding in the cylinder, a ram 46 (“plunger”, Col 6, lines 1-2, Figure 3) to drive the piston into the cylinder and having a longitudinal axis, and an energy accumulator 12 (“power unit”, Col 5, line 67, Figure 3) disposed between the ram and a discharge assembly, the rear end of the ram extending into the discharge assembly (Figures 3,4). Schiff also discloses the discharge assembly comprising a retention member 68 (“guide”, Col 7, lines 5-8, Figure 4) that engages a plurality of retention elements 64 (“ball bearings”, Col 7, lines 7-8), where retention elements are spaced around the ram (Figure 4), and a release ring 72 (Figure 4) surrounding the retention elements and preventing radial outward displacement (Col 7, lines 20-21). When release ring is displaced axially, the release ring releases the retention elements and causes discharge of the ram (Col 7, lines 26-32). The retention elements are integral with the retention member and are comprised of heads that move in and out of engagement with a groove on the ram (Figure 18).

Regarding claim 32, Schiff discloses the energy accumulator to be compression spring 38 (Col 6, lines 14-19; Col 7, lines 12-15; Figure 4).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff as applied to claim 23 above, and further in view of Landau (US 6752781).

Regarding claims 24-25, Schiff discloses a retention member for engaging a ram but does not disclose the retention member comprising a collet with radially-spreadable fingers. Landau teaches a needleless injection device with a collet 96 (Figure 9) with radially spreadable fingers 98 ("jaw surface", Col 10, line 64; Figure 9) that are biased radially inward (Col 10, line 64) and that "drivingly engages" a ram 226 (Figure 9). The collet moves between one position where the fingers engage with the ram (Figure 10) and a second position where the fingers are spread radially out of engagement with the ram (Figure 9). Thus, it would have been obvious to one of ordinary art in the skill at the time the invention was made to replace Schiff's retention member with Landau's equivalent collet with radially spreadable fingers to achieve the predictable result of engaging the ram.

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Regarding claims 26, 27, 30 and 31, Schiff's release ring can be considered a collet lock sleeve, and Schiff modified by Landau as discussed above includes collet fingers as equivalent to Schiff's ball bearings. Since Schiff's release ring limits outward radial movement of the ball bearings and is prevented from axial movement by abutment of the ball bearings, then in replacing Schiff's ball bearings with Landau's collet fingers, Schiff's release ring also limits outward radial movement of the collet fingers and is prevented from axial movement by abutment of the collet fingers.

Regarding claims 28 and 29, as best understood, Schiff's collet lock sleeve 72 ("ring", Col 7, line 20, Figure 4) has a circular inner surface with the arc perpendicular to the longitudinal axis of Schiff's injection device and with horizontal sides parallel to the longitudinal axis of the injection device. Landau's collet 96 and collet fingers 98 (Figure 9) have a circular outer surface with the arc perpendicular to the longitudinal axis of Landau's injection device and with horizontal sides parallel to the longitudinal axis of the injection device. Examiner considers these two surfaces to be "cooperating tapered surfaces".

11. Claims 39, 40, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff as applied to claim 23 above, and further in view of Weston (US 5891086).

Regarding claim 39, Schiff discloses all the claimed invention but does not disclose a resistance sensitive trigger that is activated by a forward axial force to an

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axially movable shroud. Weston teaches a needleless injection device where the device is triggered by a resistance sensitive trigger comprising an axially moveable shroud 2 ("sliding sleeve", Col 9, lines 1-11, Figure 5) that forms an outer surface of the injection device and where the trigger is activated by application of forward axial force to the shroud, which is resisted by the skin of the patient at the injection site (Col 9, lines 1-11). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schiff's injection device to include a resistance sensitive trigger comprising an axially moveable shroud forming part of the outside of the device and where the trigger is activated by application of forward axial force to the shroud, as taught by Weston, for the purpose of making the device more convenient and easy to use.

Regarding claim 40, Schiff discloses all the claimed invention but does not disclose a safety lock. Weston teaches a safety-lock ("safety bar", Col 10, line 52) to prevent accidental disengagement of the device (Col 10, line 53) where the lock is moveable between a locked position where the device cannot be discharged and an unlocked position where the device can be discharged (Col 10, lines 52-64). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a safety-lock to Schiff's injection device, as taught by Weston, for the purpose of preventing accidental discharge of the device.

Regarding claim 45, Schiff discloses all the claimed invention but does not disclose a variable volume chamber around the energy accumulator and where the chamber's volume is varied by rotating the ram. Weston teaches a needleless injection

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device with a variable volume chamber 1 ("tubular body", Col 7, line 19) where the volume of the chamber can be varied by rotating a ram 20 ("tubular member", Col 8, line 43) (Figures 2-4). Varying the volume increases and decreases the compression on the energy accumulator, spring 24, and is a mechanism to adjust the firing force (Col 8, lines 58-62). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a volume variable chamber around Schiff's energy accumulator spring and where the chamber's volume is varied by rotation of the ram, as taught by Weston, for the purpose of controlling dose volume and adjusting the firing force of the injection device.

Regarding claim 46, Weston's ram is turned by a key 6c ("threaded insert", Col 7, line 64) inserted through one end of the device (Col 5, lines 46-48, Figures 2-4).

12. Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff and Weston as applied to claim 40 above, and further in view of Slate (US 6669664).

Regarding claim 41, Schiff and Weston disclose a needleless injection device with a resistance-sensitive trigger and a safety lock, but do not disclose the safety lock comprising an axially-extending tab that prevents axial movement of the shroud. Slate teaches a needleless injection device with a safety lock comprising an axially-extending tab 68 that serves as an endstop and which in a locked position locks an endcap 40 ("firing cap", Col 7, line 49) and prevents endcap and device from moving axially from

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each other (Figure 6). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schiff's needless injector to include a safety lock with a safety locking tab that extends axially and can prevent axial movement of the shroud, as taught by Slate, in order to achieve the predictable result of providing a locking means for Schiff's needleless injection device.

Regarding claim 42, Slate teaches the tab 68 projecting from a rotatable drive plate 66 ("interlocking ring", Col 7, line 39) that is actuated by a switch 48 (Col 7, lines 38-43). The rotatable drive plate can be rotated to align or misalign the tab in an unlocked or locked position respectively (Col 7, lines 38-50).

Regarding claim 43, Slate's device is in an unlocked position when the tab 68 moves rearwardly into a recess 70 ("slot", Col 7, line 43) on an endcap 40 ("firing cap", Col 7, line 43) (Col 7, lines 38-49, Figure 6).

Allowable Subject Matter

13. Claims 33-38 and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reilly (US 5383858), Spohn (US 7273477), Pass (US 2003/0040697), Zierenberg (US 2002/0058908).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNER YEH whose telephone number is (571)270-7836. The examiner can normally be reached on Monday-Thursday, 9am-4pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quang Thanh can be reached on (571)272-4982. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Y./
Examiner, Art Unit 4118

/Quang D. Thanh/
Supervisory Patent Examiner,
Art Unit 4118

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